

Please Note:

This is the hardcopy
of a letter faxed to
the FCC at 202-418-0187
on June 13, 2005.

PO Box 230
Gallina, NM 87017

June 13, 2005

Federal Communications Commission
Office of the Secretary
445 - 12th Street, SW
Washington, DC 20554

To Whom It May Concern:

RECEIVED & INSPECTED

JUN 20 2005

FCC - MAILROOM

FCC Request for Waiver

CC Docket No. 02-6

Contact Person Regarding Waiver
Request:

Adán Delgado
PO Box 230
Gallina, NM 87017
505-638-5491 x129
505-638-5345 (fax)
adan@jmsk12.com

This letter is written for the purpose of requesting a waiver of an FCC deadline for funding year 2005-2006 pertaining to Billed Entity Jemez Mountain School District (BEN-143237), Form 471 Application Number 481827 (TEL/INTNET). On April 14, 2005, a letter was sent to the Jemez Mountain School District from the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) informing the district that a Form 471 application had been received but that the 471 Certification was postmarked 3/17/2005, which was after the filing window closed on Friday, February 18, 2005. *(Copy of letter from USAC included as attachment to this letter.)*

I would like the FCC to consider waiver and treat the 471 application as having been received within the filing window based on the following four arguments:

- For the past several years our school district has submitted our E-Rate applications electronically. The SLD implemented a programming change that voided our electronic PIN. The system that was implemented to issue a replacement PIN did not function correctly when a PIN was requested. The system in place to request a new PIN to be generated did not allow for a replacement PIN to be issued when proper procedures were followed.
- The instructions posted on the SLD website pertaining to paper certification are incomplete and ambiguous. The instructions posted on the SLD's Reference Area for paper certification were carefully reviewed, i.e., *471 Filing Guide* and *Item 21 Attachments for Form 471*. The filing guide was reviewed and absolutely nowhere in the document is there a statement regarding the fact that the certification must be submitted within the filing window. Only ambiguous instructions are included:

1. 471 Filing Guide (Excerpt included as attachment to this letter.)

<http://www.sl.universalservice.org/reference/471IntFilingGuide.asp> - Item 11, which reads, "Before your 471 can be processed, we will need your Item 21 attachments. Send these in with your paper certifications or in a separate package."

2. Item 21 Attachments for Form 471 (Excerpt included as attachment to this letter.)

<http://www.sl.universalservice.org/ContentInc/reference/Form471item21Attachments.asp> - Paragraph 3 - Page 6, which reads, "While the Item 21 attachment need not be submitted within the '471 filing window,' it must be filed in a timely fashion so that the SLD can review the information ..."

Without any clear statement regarding the deadline for the submission of the Certification, it was understood that the Certification could be filed "in a timely fashion." The Certification and Item 21 Attachments were sent in together within 30 days of the 471's finalized electronic submission.

OTZ

- The final printout of the 471 application misleadingly stated that the 471 was "COMPLETE." Upon completion and final electronic submission of the 471 (on February 17, 2005 – within the official filing window), a printout of the 471 was generated and printed. A header on the 471 document displayed on the SLD website included a statement which read, "Status: COMPLETE." It was understood that the 471 must be submitted within the filing window; however, this statement printed on the 471 misleadingly indicated that the 471 was "complete" and therefore submitted within the filing window. (*Excerpt included as attachment to this letter.*)

- The instructions for waiver request on the SLD's website state that waiver requests are granted, "only in special circumstances and when a deviation from the rules would serve the public interest." The Jemez Mountain School district is an extremely needy district. We are in the midst of critical budgetary constraints due to a school condemnation brought about by an emergency closing of a school located on the Navajo Indian reservation. The school was closed due to a fire at a gas refinery located a few hundred feet from the school. The safety risk was realized and the school was relocated for over a year. During that time a new school was built and will be opening in the fall of 2005. The budgetary constraints caused by this extenuating circumstance will make it impossible for the district to absorb the non-discounted cost of internet access for the upcoming school year, especially for a school on the Navajo reservation, where there are no terrestrial internet facilities and high-cost satellite based solutions are the only option. The Jemez Mountain School District has received E-Rate funding for the past five years and has come to rely on the subsidization of internet access. We have made great strides in our technology development to enhance the educational opportunities of our many disadvantaged students. There is no doubt that a waiver of the rule in this instance would surely, "serve the public interest."

In requesting this waiver, the Jemez Mountain School District humbly requests your serious consideration of our petition and assures that in the future all documents related to the 471 application will be submitted before the filing window closes. We ask only that it be acknowledged that it is conceivable that clearer language in the SLD's reference documents could have helped the district to avoid the submission of the Certifications outside of the filing window and that a waiver in this case would indeed serve the public interest. This waiver request applies to a 471 application that includes only recurring and tariffed, priority one services. Waiver requests have been submitted for internal connection services; however, this waiver request is by far the highest priority for our district.

Thank you and please contact us as soon as possible to inform us of a final decision or if any additional information is needed to proceed.

Sincerely,



Adán Delgado
Technology Director
Jemez Mountain School District

Enclosures (4):

1. SLD Letter, *Funding Year 2005 Form 471 Certification Postmarked Outside of Window*.
2. Excerpt from, *Form 471 Interview Filing Guide*, as posted on USAC Website.
3. Excerpt from guide, *Item 21 Attachments for Form 471*, as posted on USAC Website.
4. Excerpt from "COMPLETE" *Form 471 Application Display* dated February 18, 2005.



Universal Service Administrative Company
Schools & Libraries Division

FUNDING YEAR 2005 FORM 471 CERTIFICATION
POSTMARKED OUTSIDE OF WINDOW

April 14, 2005

Adan Delgado
JEMEZ MOUNTAIN SCHOOL DIST 53
HIGHWAY 96
GALLINA, NM 87017

Re: Applicant's Form Identifier: TEL/INTNET
Form 471 Application Number: 481827

Dear Adan Delgado:

We are sending this letter to thank you for your recent Form 471 application. Your Form 471 Certification was postmarked on 03/17/2005, which is AFTER the 2005-2006

filing window closed at 11:59 p.m. EST on Friday, February 18, 2005.

Program rules require us to hold your application pending final review of those applications that were filed within the filing window. We will post an announcement on the SLD section of the USAC web site at www.sl.universalservice.org once we determine if funding applications that were submitted within the application filing window will fully utilize all the funds available for this Funding Year.

For more information about the processing of 2005-2006 applications, about funding for applications filed after the close of the filing window or about plans for the 2006-2007 application process, please visit our web site or call the Client Service Bureau at 1-888-203-8100.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) e-mail address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
 - Appellant name,
 - Applicant name,
 - BEN,
 - Application number as assigned by the SLD,
 - Name of the letter and funding year (both are located at the top of the letter),AND
 - The exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.

Form 471 Application Number and Security Code.)

5. Sometimes your screen will "blink" after you enter data and the system then processes your entry. You may also have to click a navigation button twice to advance to the next screen if you received an error message for a field and then re-entered information for that field.
6. This interface is designed specifically for relatively simple applications that can be completed in one session, although you can save your work and exit without completing the form (see below). Therefore, some information cannot be changed after it is entered and saved in the system, and the ability to move backward from screen to screen is limited.
7. This interface will save your work at the end of each section (a "Block" on the paper form). The system generates a Form 471 Application Number and Security Code after you complete the name and address information. You can save and exit the form at any point after you receive your Form 471 Application Number and Security Code, and return later through either the interview approach (with the "Interview" button) or the traditional form data entry (with the "Continue Incomplete" button) to continue and complete your form.
8. At any time after receiving your Form 471 Application Number and Security Code, you can view your form by clicking the Form 471 "Display" button in the Apply Online/View Forms area of this web site and entering your Form 471 Application Number.
9. When you have completed your form, please be sure to review your work and print a copy of the form for your records before you submit the form by clicking the "Submit" button.
10. After you click the "Submit" button, you must either certify your form online if you have a User ID and PIN or certify your form on paper. The certification screen contains information on both methods.
11. Before your Form 471 can be processed, we will need your Item 21 attachment(s). Send these in with your paper certification or in a separate package. Include your Form 471 Application Number, your Billed Entity Number, and the number(s) you assigned to your Item 21 attachment(s). Other options for submitting these attachments are listed on the question screen where you report your Item 21 attachment number(s).

Please remember that the deadline for submitting your Form 471 for Funding Year 2003 is February 6, 2003 at 11:59 PM EST, although we encourage you to submit your form as early

Additionally, if the Item 21 Attachment is being submitted separately from the Form 471, then the Attachment or a cover letter must also include:

The applicant's Billed Entity Number

The Form 471 application number, if one has been assigned through electronic filing, or the Form 471 Applicant Form Identifier, if the Form 471 has been filed manually.

The Item 21 Attachment must be received before the SLD can begin review of a Form 471 application.

While the Item 21 Attachment need not be submitted within the "Form 471 filing window," it must be filed in a timely fashion so that SLD can review the information and make a determination of product and service eligibility.

Applicants who already have been contacted by a member of the SLD review team about a submitted Form 471 should send the Item 21 Attachment to the e-mail address or fax number that the SLD review team member provides. Otherwise, Item 21 Attachments should be submitted in either of the following ways.

Send submissions via **E-mail**. (Do not send submissions other than Form 471 Item 21 Attachments to this e-mail address.) Documents may be sent in most commercially available word processing or spreadsheet formats. Scanned documents may also be sent. (TIF file format is preferred.) Total file size of the e-mail message must be limited to less than 10 Megabytes. If you have more than one Form 471 application, do not combine Item 21 Attachments from multiple Form 471 applications in the same e-mail message.

Send fax submissions to (973) 599-6511. (Do not send submissions other than Form 471 Item 21 Attachments to this fax number.)

Send U.S. mail submissions to SLD-Form 471, P. O. Box 7026, Lawrence, Kansas 66044-7026. For courier delivery services or U.S. Postal Service Return Receipt Requested, send to SLD Forms, ATTN: SLD-Form 471, 3833 Greenway Drive, Lawrence, Kansas 66046.

All certifications provided as a part of the Form 471 also apply to the Item 21 Attachment, including certifications of compliance with state and local

Schools and Libraries Universal Service Program

Services Ordered and Certification Form 471

Application Display

Block 1: Billed Entity Information

Applicant's Form Identifier:

TEL/INTNET

471 Application Number: 481827**Funding Year:** 07/01/2005 -
06/30/2006**Billed Entity Number:**

143237

Cert. Postmark Date:**Form Status:** COMPLETE**RAL Date:****Out of Window Letter Date:****Name:** JEMEZ MOUNTAIN SCHOOL DIST 53**Address:** HIGHWAY 96**City:** GALLINA **State:** NM **Zip:** 87017**Phone:** 505-638-5491 **Ext:****Fax:** 505-638-5571**Contact Name:** Adan Delgado**Address:** HIGHWAY 96**City:** GALLINA **State:** NM **Zip:** 87017**Contact Phone:** 505-638-5491 **Ext:****Contact Fax:** 505-638-5571 **Ext:****E-mail:** adan@jmsk12.com**Contact Mode:** EMAIL**Alternate Contact Info.:****Type of Application:** SCHOOL DISTRICT**Ineligible Orgs:** N

Block 2: Impact of Services Ordered on Schools

Number of students to be served: 328

SERVICE DESCRIPTION	BEFORE ORDER	AFTER ORDER
b Telephone service: Number of classrooms with phone service	20	20
c Dial-up Internet access: Number of connections (up to 56kbps)	5	5
d Direct broadband services: Number of buildings served at the following speeds:		
Less than 10 mbps	7	7
Between 10 mbps and 200 mbps	0	0
Greater than 200 mbps	0	0
e Direct connections to the Internet: Number of drops	300	330
f Number of classrooms with Internet access	45	45
g Number of computers or other devices with Internet access	205	235